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| EXAMINER | |
|---|---|
| COFFY, EMMANUEL | |
| **ART UNIT** | **PAPER NUMBER** |
| 2157 | |

DATE MAILED: 01/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/887,499 | SCHIUMA, LUIGI | |
| | Examiner | Art Unit | |
| | Emmanuel Coffy | 2157 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☒ Responsive to communication(s) filed on *04 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *12-20* is/are pending in the application.

4a) Of the above claim(s) *19* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *12-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☒ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

## DETAILED ACTION

1. This action is responsive to the remarks filed on November 4, 2005. Claims 12-20 are pending. Claims 12-20 are directed to a system for "Multi-platform Application" are pending. Claims 1-11 and 19 are canceled.

### *Response to Arguments*

2. Applicant's arguments have been fully considered but they are not persuasive. Applicant argues that:

a) Kraslavsky fails to teach or suggest a "request sender for sending an IPX/SPX Routing Information Protocol (RIP) request packet over the Internet to IPX subnets connected within a specified number of hops." See remarks page 5, last paragraph. The Examiner respectfully disagrees. First, Applicant failed to consider the merits of the rejection as set forth in the office action regarding above limitations. Applicant stated: "regardless of the correctness of this allegation" referring to the citation of Kraslavky col. 13, lines 1-27 directed to above limitations. See remarks page 5, last paragraph. Specifically, Kraslavky teaches:

> in Fig 9(a), device 182 is a Novell device running an IPX/SPX protocol using an 802.2 frame type, device 183 is a UNIX network device running a TCP/IP protocol... See col. 13, lines 34,37.

Furthermore, Table 3 in column 14 lists examples of allowable frame types for IPX/SPX, TCP/IP (Internet).

As for a specified number of hops, Rune teaches this limitation at col. 4, lines 37-43. The rejection was based on a non-obvious type under 35 USC §103 as being unpatentable over Kraslavky in view of Rune in further view of Chen and in further view of Jorgensen. So, by addressing a reference singly, Applicant fails to assess the

rejection within the proper context. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

b) Applicant further argued that the statement that Rune teaches: "a set of network numbers may be used to send an IPX/SPX packet to a subnet included within the set of network numbers extensively" is technically incorrect and completely without merit. See remarks. Page 6, last paragraph. Applicant then asserted that Rune refers exclusively to a TCP/IP network and is completely silent with regard to IPX/SPX. Therefore, Rune cannot possibly teach a: "set of network numbers may be used to send an IPX/SPX packet to a subnet included within the set of network numbers extensively." As such, one of ordinary skill in the art would not be motivated to combine the teachings of Kraslavsky and Rune in the manner suggested by the Examiner. Applicant misapprehends Rune. It specifically discloses that the invention is not limited to the embodiments disclosed, but is capable of numerous rearrangements, modifications and substitutions without departing from the spirit of the invention as set forth and defined by the claims. Col. 9, lines 35-42. With the evolution of heterogeneous LANs, many different communication protocols are carried on a single medium. A device connected to a heterogeneous LAN must have an appropriate protocol stack for each of the different protocols carried on the LAN. A protocol stack is a software module that processes packets of data received from or transmitted to the LAN using the

corresponding protocol. Given that IPX/SPX is a protocol which is used by DOS-based PCs whereas TCP/IP is used by UNIX-based workstations. An artisan of ordinary skill in the art could easily make the translation. Again, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

In response to Applicant's argument directed to the motivation to modify, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. In re McLaughlin, 170 USPQ 209 (CCPA 1971). References are evaluated by what they suggest to one versed in the art, rather than by their specific disclosures. In re Bozek, 163 USPQ 545 (CCPA 1969).

Finally, Applicant failed to distinguish the invention at bar as stipulated by 37 CFR § 1.111(c) requiring applicant to "clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections."

The Examiner maintains the arguments presented in the last Office Action as outlined below and the rejection is therefore sustained. The new claim which has been added is only a recitation of a deleted limitation of claim 1 which was previously rejected. Any amendments are addressed in the rejection that follows.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

5. New matter

The amendment filed 4 November 2005 is objected to under 35 U.S.C. §132 because it introduces new matter into the disclosure. 35 U.S.C. §132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material that is not supported by the original disclosure is as follows: to simulate a TCP/IP environment in an IPX/SPX network.

The Examiner asserts that the added recitation forming a new element finds no support in the spec. If however, applicant believes the added recitation is described in the spec to point out where it's found. Moreover, the drawings are silent when it comes to the above limitations.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 12-19 are rejected under 35 U.S.C. §103(a) as being unpatentable over Kraslavsky (US 5,699,350) in view of Rune (US 6,304,913.) in further view of Chen et al. (US 6,549,882) and in further view of Jorgensen (US 6,862,622) in further view of Bleier, Jr. et al. (US 6,832,184.)

Kraslavsky teaches the invention substantially as claimed including a network interface device which can communicate with other devices via a local area network (LAN) using various protocols and frame types, and which can be remotely reconfigured to use different protocols and frame types. (See abstract)

Claim 12:

Kraslavsky discloses a system for simulating a TCP/IP environment in an IPX/SPX network, the system comprising:

a request sender for sending an IPX/SPX Routing Information Protocol (RIP) request packet over the Internet to IPX subnets connected within a specified number of hops; (See col. 13, lines 1-27; col. 14, lines 37-47.)

a responses collector for receiving responses to the RIP request packet from the IPX subnets, each response having a response IPX Net Number and a response number

of hops; and (See col. 11, lines 11-48.)

Kraslavsky fails to teach the following limitations:

a response filter for filtering the responses to remove responses in which the response number of hops is greater than the specified number of hops to produce a set of network numbers,

wherein the set of network numbers may be used to send an IPX/SPX packet over the Internet to a subnet included within the set of network numbers to simulate a TCP/IP environment in an IPX/SPX network,

However, Rune teaches "set of network numbers may be used to send an IPX/SPX packet to a subnet included within the set of network numbers" extensively. (See Fig. 4, 5, 7, 8, 9, 10 and col. 4, lines 37-43).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the communication system taught by Kraslavsky with the hop count system disclosed by Rune. Such a system would improve efficiency of the network.

Neither Kraslavsky nor Rune teach filter for filtering responses. However, Chen extensively discloses a filter. (See Fig. 2, Fig. 3A, col. 2, lines 13-19.)

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to combine the communication system taught by Kraslavsky and the hop count system disclosed by Rune with the filtering process disclosed by Chen. Such a system would improve efficiency of the network by discriminating against responses from servers that are greater than a predefined number.

Kraslavsky, Rune and Chen do not teach Routing Information Packet according to a pre-defined schedule. However, it is common knowledge in the art as evidenced by Jorgensen at col. 50, lines 9-20 and throughout (col. 48, lines 9-13, 35-50; col. 49, lines 9-18.) Hence, it would have been obvious to an artisan of ordinary in the art to combine the communication system taught by Kraslavsky, the hop count system disclosed by Rune and the filtering process disclosed by Chen with the prioritization disclosed by Jorgensen. A system using the scheduling scheme taught by Jorgensen would avoid undue delay when using a connectionless medium thereby assuring the delivery of a high level of QoS.

Kraslavsky, Rune and Chen are silent as to: "simulate a TCP/IP environment in an IPX/SPX network." However, Bleier, Jr. explicitly teaches said limitation. See col. 7, lines 16-21, col. 9, line 29-col. 11, line 20 and col. 13, lines 10-23. Hence, it would have been obvious to an artisan of ordinary in the art to combine the communication system taught by Kraslavsky, the hop count system disclosed by Rune, the filtering process disclosed by Chen and the prioritization disclosed by Jorgensen with the simulation system disclosed by Bleier, Jr. A system using the simulation scheme taught by Bleier, Jr would be flexible and extensible.

Claim 13:

Chen teaches the system of claim 12, wherein the responses filter further stores the set of network numbers in a table. (See col. 4, line 64-col. 5, line 6.) Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the responses filter taught by Chen.

Claim 14:

Rune discloses the system of claim 13, wherein the table of network numbers may be accessed to locate a server located on an IPX/SPX network in the case of a failure to locate a corresponding TCP/IP address for a web server. See col. 5, lines 27-56). Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the table of network numbers taught by Rune.

Claim 15:

Kraslavsky teaches the system of claim 12, further comprising an IPX/SPX broadcast module for broadcasting the IPX/SPX packet to a selected subnet. (See col. 14, lines 58-61.) Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the communication system taught by Kraslavsky.

Claim 16:

Rune discloses the system of claim 15, wherein the IPX/SPX broadcast module uses a broadcast number of hops to indicate the selected subnet. (See Fig. 4, 5, 7, 8, 9, 10 and col. 4, lines 37-43). Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the IPX/SPX broadcast system taught by Rune.

Claim 17:

Rune teaches the system of claim 12, wherein the request sender sends the IPX/SPX Routing Information Packet in response to the sending of the IPX/SPX packet having a sending number of hops that is greater than the specified number of hops. (See Fig. 4, 5, 7, 8, 9, 10; col. 4, lines 37-43 and col. 10, lines 25-27.) Hence, it would have

been obvious at the time of the invention for an artisan of ordinary skill in the art to use the IPX/SPX broadcast system taught by Rune.

Claim 18:

Rune teaches the system of claim 12, wherein the request sender sends the IPX/SPX Routing Information Packet in response to a DNS response indicating a failure to locate a TCP/IP address for a requested web server. (See col. 5, lines 27-56).

Hence, it would have been obvious at the time of the invention for an artisan of ordinary skill in the art to use the DNS system taught by Rune.

Claim 20:

Kraslavsky, Rune and Chen substantially teach the system of claim 12, wherein the request sender periodically sends the IPX/SPX Routing Information Packet according to a predefined schedule.

Kraslavsky, Rune and Chen are silent as to Routing Information Packet according to a pre-defined schedule. However, it is common knowledge in the art as evidenced by Jorgensen at col. 50, lines 9-20 and throughout (col. 48, lines 9-13, 35-50; col. 49, lines 9-18.) Hence, it would have been obvious to an artisan of ordinary in the art to combine the communication system taught by Kraslavsky, the hop count system disclosed by Rune and the filtering process disclosed by Chen with the prioritization disclosed by Jorgensen. A system using the scheduling scheme taught by Jorgensen would avoid undue delay when using a connectionless medium thereby assuring the delivery of a high level of QoS.

8. **THIS ACTION IS MADE FINAL.**

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Emmanuel Coffy whose telephone number is (571) 272-3997. The examiner can normally be reached on 8:30 - 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov.

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Emmanuel Coffy
Patent Examiner
Art Unit 2157

***EC
December 22, 2005

ARIO ETIENNE
SUPERVISORY PATENT EXAMINER